

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

CHRIS E. TURNER,

Plaintiff,

v.

CITY OF AUBURN, et al.,

Defendants.

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Case No.: 3:07-cv-162-MEF

**MOTION TO RECONSIDER ORDER DENYING MOTION FOR LEAVE
TO FILE THIRD-PARTY COMPLAINT**

COMES NOW the City of Auburn ("the City"), a Defendant in the above-styled cause, pursuant to *Federal Rule of Civil Procedure* 14(a), and respectfully requests the Court to reconsider its Order denying leave to the Defendant to file a Third-Party Complaint. As grounds for this motion, the City states as follows:

1. The Court based its denial of the Motion For Leave to File a Third-Party Complaint based on the Court's Uniform Scheduling Order (Doc.#37) which established a deadline for adding parties of December 28, 2007. The City had, in fact, referred to that Uniform Scheduling Order when representing to the Court in its Motion for Leave that the motion was timely filed.

2. However, the City filed a motion for an extension of the deadline to add parties on December 17, 2007 (Doc. #49) and the Court granted the motion and extended the deadline to January 18, 2008 (Doc. #50). The Defendant inadvertently referred to the Uniform Scheduling Order without clarifying that the deadline had been extended until January 18, 2008.

3. The Motion for Leave to File Third-Party Complaint (Doc. #52) was timely filed on January 18, 2008.

4. No party will be prejudiced if the Court reconsiders its Order of today's date denying the Motion for Leave to File Third-Party Complaint and determines that the Motion for Leave was actually timely filed. Plaintiff had no objection to Defendant's Motion for Leave To File Third-Party

Complaint.

WHEREFORE PREMISES HAVING BEEN CONSIDERED, the City of Auburn respectfully requests that the Court reconsider its Order denying the Motion for Leave to File Third-Party Complaint enter an Order granting the Motion for Leave to File Third-Party Complaint.

Respectfully submitted this the 6th day of February 2008.

/S/ Randall Morgan

Randall Morgan [8350-R70R]
Elizabeth Brannen Carter [3272-C-38-E]
Counsel for Defendant City of Auburn

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CERTIFICATE OF SERVICE

I Hereby Certify that I have this date served a true and correct copy of the foregoing *Motion for Leave to File Third-Party Complaint on Behalf of Defendant* with the Clerk of the Court for the United States District Court, for the Middle District of Alabama, using the CM/ECF system which will send notification of such filing to: Jeffrey W. Bennitt, Esquire (bennittlaw@aol.com), Wanda D. Devereaux, Esquire (wdd@devxllc.com), and Richard F. Horsley, Esquire (rfhala@cs.com), this the 6th day of February 2008.

/S/ Randall Morgan

Of Counsel